

**Notice of Allowability**

Application No.

09/526,600

Examiner

Son P. Huynh

Applicant(s)

NEWBERRY ET AL.

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed on August 19, 2005 and the telephone conversation on September 19, 2005.

2. ☒ The allowed claim(s) is/are 1-12, 14-16 have been renumbered as 1-15.

3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some\* c) ☐ None of the:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.

(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached

1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.

(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)

2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_

4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material

5. ☐ Notice of Informal Patent Application (PTO-152)

6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_

7. ☒ Examiner's Amendment/Comment

8. ☒ Examiner's Statement of Reasons for Allowance

9. ☐ Other \_\_\_\_\_

  
**CHRISTOPHER GRANT**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 26**

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Applicant's representative Joel M. Fogelson (Reg. No. 43,613) on September 19, 2005.

The application has been amended as follows:

Claim 8 (previous presented) A method for substituting a program conveyed on a first broadcast channel for a program conveyed on a second broadcast channel, comprising the steps of:

acquiring a first channel map associating a first transmission channel carrier frequency with data identifiers used to capture datastreams constituting a first program conveyed on a first broadcast channel;

acquiring a second channel map associating a second transmission channel carrier frequency with data identifiers used to capture datastreams constituting an alternative program conveyed on a second broadcast channel; and

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substituting said alternative program for said first program in response to predetermined criteria by using said second channel map information to initiate acquisition of said second broadcast channel and said alternative program **and in response to user selection of said first broadcast channel, wherein said first program and said alternative program are the same, and** wherein

(i) said first and second transmission channel carrier frequency use the same broadcast modality selected from a satellite broadcast, a terrestrial broadcast, and a cable broadcast, and

(ii) geographical criteria are used for said substitution step.

***Allowable Subject Matter***

2. Claims 1-12, 14-16 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claims 1-7, the prior art of record does not teach or fairly suggest a method for acquiring a program conveyed one more than one broadcast channel as variously claimed, particularly having the feature of acquiring the particular program from the first broadcast channel in response to user selection of second broadcast channel, wherein the broadcast channels are transmitted using the same transmission modality and the first broadcast channel is selected as the source for the particular

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program in view of geographical information and the program guide display lists a particular program on both a first and a second broadcast channel.

Regarding claims 8-12, 14-16, the prior art of records fails to disclose or fairly suggests a method for substituting a program as variously claimed, particularly having the feature of substituting the alternative program for the first program in response to predetermined criteria by using the second channel map information to initiate acquisition of the second broadcast channel and the alternative program and in response to user selection of the first broadcast channel, wherein the first program and the alternative program are the same, wherein the first and second transmission channel carrier frequency use the same broadcast modality, and geographical criteria are used for the substitution step.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P. Huynh whose telephone number is 571-272-7295. The examiner can normally be reached on 8:30-6:00.

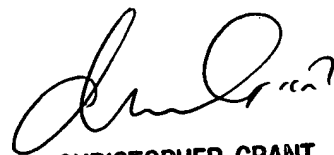
4. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher C. Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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5. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SPH

September 19, 2005



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